Attorney Genera
Betty D. Montgo nery

July 17, 1996

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Via Overnight Mail

Office of the Secretary
Federal Communicati ns Commission
1919 M Street, N.W., Room 222
Washington, D. C. 20554

DOCKET FILE COPY ORIGINAL

Re: *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC 96-128.

Dear Mr. Caton:

Enclosed plea e find the original and fourteen copies of **Reply Comments of the Public Utilities Commission of Ohio** in the above-referenced matter, al ng with a Motion for Extension of Time. Please return a time-stamped copy o me in the enclosed stamped, self-addressed envelope

Thank you for our assistance in this matter.

Respectfully submitted,

Ann E. Henkener

ANN E. HENKENER
Assistant Attorney General
Public Utilities Section
180 East Broad Street
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(614) 466-4397

AEH/kja

Enclosure
cc: Common Carrier Bureau, Enforcement Division
International Transcription Services, Inc.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of the Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996.	: : : :	CC Docket No. 96-128

MOTION FOR EXTENSION OF TIME OF THE PUBLIC UTILITIES COMMISSION OF OHIO

The Public Utilities Commission of Ohio (PUCO) requests that the Federal Communications Commission (FCC) permit the PUCO to file its Reply Comments in the above referenced proceeding on July 18, 1996, three days after the due date of July 15, 1996. The PUCO was unable to obtain copies of original comments and consider reply comments prior to its formal meeting on July 17, 1996. The PUCO is aware of the importance of timely submission of comments and reply comments, has made filings in 10 proceedings since March of 1996, and has not previously requested an extension. This extension will not prejudice any party, and will permit the FCC to have a more complete record on which to decide these issues.

Respectfully submitted,

BETTY D. MONTGOMERY
Attorney General of Ohio

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Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)))))	CC Docket No. 96-128

EXECUTIVE SUMMARY OF THE REPLY COMMENTS OF THE PUBLIC UTILITIES COMMISSION OF OHIO

The Public Utilities Commission of Ohio (PUCO) submits that the FCC adopt an additional fourth alternative approach to ensuring that PSPs are adequately compensated for calls originating at their equipment. In particular, the PUCO submits that the fourth alternative approach should provide the individual states the opportunity to require LECs to unbundle services provided to PSPs and to lower overall prices to PSPs for these services to ensure that the end-user coin rate cap at payphones currently imposed by the individual states need not be changed.

Adopting this approach will ensure that LECs continue to satisfy their intrastate commitments concerning end user local coin payphone rates, while simultaneously ensuring, consistent with Section 276, that PSPs are adequately compensated for coin calls placed over their equipment. This approach also will protect end users from higher local coin rates at payphone locations.

The PUCO submits, however, that any restructured LEC rate to PSPs must be set at a level that continues to ensure that the LEC is compensated in excess of its costs for providing that particular service. Only after a LEC demonstrates that it would not be fairly compensated for the provision of services to PSPs, should the end user rate be reviewed for modification. Likewise, no LEC's rates should be decreased until a demonstration is made to the local state Commission by the PSP that the current coin rate is not adequately compensating the PSP for its local service charges.

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FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)))))	CC Docket No. 96-128

REPLY COMMENTS OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

INTRODUCTION AND BACKGROUND

The Public Utilities Commission of Ohio (PUCO) hereby submits its reply comments pursuant to the Federal Communications Commission's (FCC's) Notice of Proposed Rulemaking (NPRM) in CC Docket No. 96-128 (In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996). The FCC's NPRM in this investigation proposes rules pursuant to the directives of Section 276 of the Telecommunications Act of 1996 (1996 Act). Reply comments in this proceeding are due at the FCC on July 15, 1996.

Section 276 of the 1996 Act directs the FCC, among other things, to promulgate rules that ensure that all payphone owners are compensated for calls originated on their payphones. The FCC in an attempt to institute this provision of the 1996 Act proposes three individual alternative approaches. After reviewing the comments of various parties, including other state commissions, the PUCO endorses a fourth alternative to those outlined by the FCC so as to implement Section 276 of the Act. In a nutshell, this alternative would have the states and the FCC (through setting broad guidelines for state implementation) focus on the local service rates charged to non-LEC payphones in order to meet the compensation requirements of Section 276 of the Act rather than focusing on the national end user coin rate. This approach is further defined below.

DISCUSSION

In its NPRM the FCC proposes three options for ensuring fair compensation for payphone service providers PSPs with respect to local coin sent-paid calls:

(1) Set a national coin rate for all calls originated at payphones.

(2) The FCC would prescribe specific national guidelines that states would use to establish a local rate that would ensure that all PSPs are fairly compensated.

(3) States could continue to set coin rates for local payphone calls, which would ensure fair compensation, according to factors within their discretion.

The PUCO submits that the FCC adopt an additional fourth alternative approach to ensuring that PSPs are adequately compensated for calls originating at their equipment. In particular, the PUCO submits that the fourth alternative approach should provide the individual states the opportunity to require LECs to unbundle services provided to PSPs and to lower overall prices to PSPs for these services to ensure that the end-user coin rate cap at payphones currently imposed by the individual states need not be changed.

In support of its recommendation on this matter, the PUCO informs the FCC that in Ohio two larger LECs have, as part of intrastate alternative regulation proceedings, committed to long-term rate caps of $.25 for the local coin rate assessed to end users at pay stations. These companies include Ameritech and The Western Reserve Telephone Company (attached are these companies' current pay station local coin rate tariff pages or relevant portions of their alternative regulation plans). In exchange for this $.25 local coin rate cap, in addition to other similar public interest commitments, the companies have been afforded certain relaxed regulatory treatment for the provision of other services (e.g., more flexible pricing for discretionary or competitive services) Taking this situation into consideration, the PUCO maintains that the FCC should, as an alternative to permitting an increase in the coin rate assessed at payphones, afford the states the option to require downward price adjustments in the rates assessed to PSPs by LECs. In Ohio, as in many other states, the local rate paid by the non-LEC payphone provider is the same as the end user business line message rate. Those business lines rates have traditionally been priced significantly above cost to provide contribution to other services. Such contribution will now be provided, in part, from universal service funding. As a result, the states would, in many cases, have the ability to meet the Section 276 requirements by lowering the basic rate charged to non-LEC payphone providers yet still compensate both the LEC for its costs of providing the service and the non-LEC payphone provider for its costs. Expressed another way, because of the significant contribution and above-cost pricing of the LEC services provided to non-LEC payphone providers (which at least in Ohio is the same rate as the business end user rate), there is significant "room" within that rate to accomplish both of the goals of Section 276---namely fair compensation to the LEC and fair compensation to the non-LEC payphone provider. Thus, there is no need to upset the coin rate paid by end users which, as noted above, has been capped by state regulatory proceedings and also carries with it significant impact for low-income consumers. The PUCO would propose that the FCC outline this approach as a fourth option for the state's consideration and only if the compensation set forth above cannot be accomplished by lowering rates paid by non-LEC providers would states consider any adjustment to the end user coin rate either on their own or by use of the proposed Florida PSC benchmark rate. Adopting this approach will ensure that LECs continue to satisfy their intrastate commitments concerning end user local coin payphone rates, while simultaneously ensuring, consistent with Section 276, that PSPs are adequately compensated for coin calls placed over their equipment. Moreover, the PUCO maintains that adopting this approach will protect end users from higher local coin rates at payphone locations.

The PUCO submits, however, that any restructured LEC rate to PSPs must be set at a level that continues to ensure that the LEC is compensated in excess of its costs for providing that particular service. Only after a LEC demonstrates that it would not be fairly compensated for the provision of services to PSPs, should the end user rate be reviewed for modification. Likewise, no LEC's rates should be decreased until a demonstration is made to the local state Commission by the PSP that the current coin rate is not adequately compensating the PSP for its local service charges. After such a demonstration is made by the PSP, the local state Commission could require price decreases in the LEC's recurring monthly charge for local access and/or the local per message usage charges assessed to PSPs. In particular, the LEC could be required to reduce by a certain percentage amount its recurring monthly charge for local access (which as noted earlier is set equal to the business line rate in Ohio), or it could be required to lower by a certain percentage amount its per call usage sensitive rates and/or required to allow for additional calls without charge prior to the usage sensitive rate applying.

On a final matter, the PUCO observes that this recommendation is consistent with its initial comments filed in this proceeding where the PUCO indicated that the FCC could better fulfill its obligations under Section 276 of the 1996 Act by modifying its tentative conclusions and establishing a dual regulatory approach that better promotes the cooperative regulatory paradigm envisioned by Congress in passing the 1996 Act. The PUCO further indicated in its initial comments that this cooperative regulatory paradigm would be best established by the FCC adopting broad regulatory guidelines while affording the states, such as Ohio, substantial deference in determining the best approach to satisfy the federal goals.

CONCLUSION

In closing, the PUCO wishes to thank the FCC for the opportunity to file reply comments in this docket.

Respectfully submitted,

BETTY D. MONTGOMERY
Attorney General of Ohio

DUANE W. LUCKEY
Section Chief

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Dated: July 17, 1996

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Attachment 1

Before
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the Ohio Bell Telephone Company for Approval of an Alternative Form of Regulation.	))))	Case No. 93-487-TP-ALT

AMERITECH OHIO
PLAN OF ALTERNATIVE REGULATION

DATED: September 20, 1994

apply the common overhead allocation described in Paragraph 11G, in which case the rate floor shall be LRSIC plus the common overhead allocation prescribed by the Commission.

For Cell 2 services which are not currently subject to min-max pricing, the maximum rate shall be 100% above the existing rate and any increase shall be limited to 20% per year up to the maximum of the range. The maximum price for any new service classified in Cell 2 shall be 100% above the initial price. The minimum rate shall be the existing rate until such time as a LRSIC study has been approved at which time the price floor shall be LRSIC plus a common overhead allocation as described in Paragraph 11G, unless the Commission waives, in whole or in part, the requirement to apply the common overhead allocation described in Paragraph 11G, in which case the rate floor shall be LRSIC plus the common overhead allocation prescribed by the Commission. Notwithstanding the above, the maximum price for public/semi-public (payphone) local messages shall be capped at the existing rate ($0.25) for the duration of the Plan.

Except for carrier access services, prices for all services included in Cell 2, as adjusted pursuant to this Plan, shall be capped for one (1) year from the effective date of the Plan.

PRICING LIST

1. PUBLIC AND SEMI-PUBLIC TELEPHONE SERVICE (Cont'd)

C. Rates and Charges

1. Local and Toll Messages-Public and Semi-Public Telephone Service

a. Local Messages

(1) Except as otherwise provided in (2) and (3) following, the local message charge is $ .25*

*The maximum rate is capped at $0.25 until January 9, 2001. Order No. 93-487-TP-ALT.

6. <u>AMENDMENT OF THE PLAN</u>:

At any time during the term of the Plan, the Company may request that the Plan be amended by filing with the Commission a notice of amendment which sets forth the specific elements of the Plan that are to be affected and the effect that such amendment would have upon the Plan. Such notice shall also be served upon all parties to the proceeding in which the Plan was approved, and any person not otherwise represented who requests to be served with such notice. The Commission shall order such procedures as it deems necessary, consistent with the Rules, in its consideration of any request to amend the Plan.

7. <u>WITHDRAWAL OF THE PLAN</u>:

At any time during the Initial Term of the Plan, the Company may request that the Plan be withdrawn by filing with the Commission a notice of withdrawal which sets forth the reasons for withdrawal. Such notice shall also be served upon all parties to the proceeding in which the Plan was approved, or any person who requests notice of such withdrawal. The Commission shall order such procedures as it deems necessary, consistent with the Rules, in its consideration of the request.

8. <u>MODIFICATION AND REVOCATION OF THE PLAN</u>:

The Commission may not modify or revoke any order accepting or approving the Plan, unless it determines, after notice to the Company and hearing, that the Company has failed to materially comply with the terms of the Plan. Prior to any such ruling, the Commission shall take into consideration, after notice and hearing, consequences of such action on the Company, as well as the impact on its customers and shall provide the Company an opportunity to cure its noncompliance.

9. <u>NEW SERVICES</u>:

The Company may submit an Application Not for an Increase in Rates to establish a new service, which shall be governed by the Commission's rules and procedures established in Case No. 84-944-TP-COI and for 86-1144-TP-COI, or other applicable rules exclusive of rules arising under Chapter 4927, Revised Code.

10. <u>COMMITMENTS</u>:

The Company commits to infrastructure deployment or customer service in addition to its minimum telephone service standards, as follows:

(A) Flat rate basic local exchange service will continue to be available during the Initial Term.

(B) Tariffed rates, except monthly and non-recurring charges associated with residential Tel-Touch charges, charges for services subject to pricing flexibility in accordance with the Commission's decisions in Case No. 84-944-TP-COI and/or 86-1144-TP-COI, intrastate Originating and Terminating Carrier Common Line Charges and Local Switching Traffic Sensitive access charges, and rates for basic local exchange service to schools, shall not be changed during the Initial Term; provided, however, that nothing herein shall prohibit the Company from taking such action during the Initial Term as is necessary to establish rates to be effective upon or after conclusion of the Initial Term.

(C) The Company will, beginning in January, 1994, deploy technology and services within its service territory to provide an advanced network which will provide increased reliability and survivability, the availability of enhanced services, economic development opportunities and increased public safety.

Completion of the Company's technology deployment commitment will accomplish the following network capability goals:

	1994	1995	1996
Digital Switching Capabilities[1]	100.0%	100.0%	100.0%
SS7 Capabilities[1]	88.5%	89.5%	95.0%
CLASS Services[1]	87.2%	88.9%	95.0%
Enhanced Network[2]	6.7%	15.6%	22.2%
ISDN[1]	32.5%	37.1%	44.6%
Interoffice Fiber Connectivity[2]	75.6%	90.0%	95.0%
Schools passed by Broadband Facility[3]	32.0%	40.0%	42.0%

[1] Percent of Access Lines
[2] Percent of Central Offices
[3] Percent of Schools in Territory

This commitment shall be considered fulfilled if the Company achieves the above projected percentages plus

S6. COIN TELEPHONE SERVICE

S6.4 Company-Owned Coin-Operated Telephones Used for Public Telephone Service

S6.4.2 General (continued)

B. Charges

Moved From Sheet No. 6

1. Local messages from coin-operated telephones used for public telephone service are charged for at $.25 each and long distance messages are charged at the established long distance telephone rate.

S6.5 Company-Owned Coin Operated Telephones Used for Semi-Public Telephone Service

S6.5.1 Definition and Purpose of Semi-Public Telephone Service

A. Semi-public Telephone Service is that class of individual line exchange service furnished in locations which are reasonably accessible to the public. Semi-public Telephone Service is utilized at the following types of locations based on the nature and amount of usage:

1. Where there is an appreciable demand for service on the part of transients.
2. Where there is a collective use of the service by a relatively stable body of guests, members of clubs or transients.
3. Where the demand for service is for a combination of customer and transient usage.

S6.5.2 General

A. The customer may choose to lease the semi-public coin-operated telephone and station outlet from the Company, where in the opinion of the Company, installation of a coin-operated public telephone is not warranted. The customer shall be provided with the key for the coin box and will collect all receipts which he/she may apply to his/her monthly charges.

B. Optional service and items of equipment may be requested by the semi-public telephone customer, such as extra bells, gongs, directory listings, etc., which are provided at the established business rates shown in other sections of this tariff. Coin operated telephones will be equipped with a standard-length handset cord.

C. Standard booths may be furnished for semi-public telephone service when requested by the customer, and in the judgment of the Company, they are warranted by the actual or estimated amount of traffic or by the character of the station location. See S16.5.2. of this tariff for rates.

Attachment A

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

o Microfilm, microform, certain photographs or videotape.

o Other materials which, for one reason or another, could not be scanned into the RIPS system.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.